

IN RE: PETITION FOR SPECIAL HEARING
E/S Annapolis Road, 59' N of
the c/l of Violet Avenue
(3529 Annapolis Road)
13th Election District
1st Councilmanic District
Francisco Figueroa, et ux
Property Owners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. V-93-451-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing filed by the Zoning Administration and Development Management Office (ZADM), pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). The owners of the subject property, Francisco and Ada E. Figueroa were requested to appear before this Deputy Zoning Commissioner to present evidence that the subject property has been in continuous operation as an automobile service station for a period of twelve (12) consecutive months. In addition, the property owners were requested to demonstrate that the subject property has been maintained in a clean and orderly condition at all times.

Appearing at the hearing on behalf of himself and his wife was Francisco Figueroa. Mr. Figueroa was represented by William F. Jones, Esquire. Also appearing on behalf of the property owners were James E. Dyer, Zoning Consultant, and John Hollander, Marketing Manager for Eastern Petroleum. There were no Protestants present.

Testimony indicated that the subject property, known as 3529 Annapolis Road, consists of 0.5914 acres, more or less, zoned B.L. and is improved with a one-story concrete block building which has existed on the site since 1946. Said building was previously used as a gasoline service station but is currently vacant. Mr. James Dyer testified that a special

hearing in 1946 approved the use of the subject property as a service garage and gasoline service station. He testified that he is familiar with the subject property and that at all times that he visited the site, he found it to be very clean, neat and well-maintained.

Mr. Figueroa testified that he purchased the subject property in 1986 at which time it was the site of the Annapolis Road Citgo service station. Mr. Figueroa testified that in June 1991, the existing building was damaged due to a fire and that it has been boarded up since that time. Mr. Figueroa indicated that instead of repairing the existing building, he intends to construct a new and more modern service station on the site. Testimony and evidence presented demonstrated that Mr. Figueroa has been pursuing development of the subject property over the past two years. Further testimony revealed that Mr. Figueroa also owns and operates a nearby Exxon service station.

Mr. John Hollander, Marketing Manager for Eastern Petroleum, testified that he has been working with Mr. Figueroa and his engineers in an effort to develop the subject site to dispense Eastern Petroleum products. It was clear from the testimony presented by all of the witnesses that Mr. Figueroa has no intention of abandoning the subject property as a gasoline service station. To the contrary, it is clear that Mr. Figueroa has been pursuing development of the property for some time.

As a result of the overwhelming and uncontradicted testimony presented at the hearing, I do not believe that the property owner is subject to the requirements of those Sections of the B.C.Z.R. cited within the Petition for Special Hearing. This is a situation where the existing facility was damaged by fire and the Petitioner has been pursuing development of the site with a new and better facility. I find that a new facility

will be a benefit to the community and that Mr. Figueroa should be permitted to continue pursuing his development plans. It should be noted that it is not unusual for development of a particular site to take more than one year to proceed through the development process. Thus, I find that Mr. Figueroa has been reasonably pursuing development of the subject site and should be permitted to continue to do so.

Pursuant to the relief requested in the Petition for Special Hearing, I find that Mr. Figueroa has not intended to abandon the use of the subject property as a service station and that the property has been maintained to the extent possible at all times.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of August, 1993 that the Petition for Special Hearing shall be GRANTED, subject to the following restrictions:

- 1) The property owners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from the date of this Order has expired. If, for whatever reason, this Order is reversed, the relief granted shall be rescinded.
- 2) The property owner shall continue to proceed with development of the subject property in an expeditious manner. A new site plan shall be submitted to Baltimore County for review and approval within six (6) months of the date of this Order. In the event the property owner fails to submit the required site plan within the time frame stated above, then a new hearing shall be held to determine whether or not the property owner should be allowed to proceed through the development process.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

August 27, 1993

(410) 887-4386

William F. Jones, Esquire
703 Giddings Avenue, Suite U6
Annapolis, Maryland 21401

RE: PETITION FOR SPECIAL HEARING
3529 Annapolis Road
13th Election District
Case No. V-93-451-SPH

Dear Mr. Jones:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

1 file

ORDER RECEIVED FOR FILING
Date 8/27/93
By Reg

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Date 8/27/93
By Reg

ORDER RECEIVED FOR FILING
Date 8/27/93
By Reg

Petition for Special Hearing

Case #: V-93-451-SPH (C-93-1305)
to the Zoning Commissioner of Baltimore County

for the property located at 3529 Annapolis Boulevard
which is presently zoned B.L.

This Petition shall be filed with the Office of Zoning Administration & Development Management, Baltimore County. Hearings on a Special Hearing under Sections 26-3 and 26-12 (a) of the County Code and Section 500.8 of the Zoning Regulations of Baltimore County, for the Zoning Commissioner to conduct a hearing involving a violation or alleged violation or non-compliance with any zoning regulations or order issued by the Zoning Commissioner, Board of Appeals or Court, or for the proper interpretation thereof, more specifically:

Section number(s): 26-119 Baltimore County Code; 101 "Automotive Service Station"; 102.1; 230.13; 405.48.6; 405.6C; 405.6E; 405.6F; 500.7 of the Baltimore County Zoning Regulations.

- Nature of violation(s):
1. Whether the existing automotive service station has been in continuous operation for a period of 12 consecutive months.
 2. Whether the maintenance of the automotive service station has been in a clean and orderly condition at all times.

I do solemnly affirm that the contents stated above are correct to the best of my knowledge, information and belief.
6/24/93
Date
John Conn
Office of Zoning Administration Representative

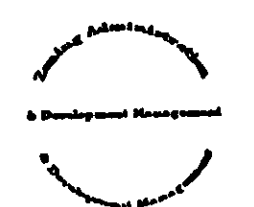
SUMMONS

ISSUED TO: FRANCISCO AND ADA E. FIGUEROA
C/O Annapolis Road Citgo
ADDRESS: 721 Murray Road
Linthicum, MD 21090

To appear and testify in the matter of an alleged zoning violation or for the purpose of a proper interpretation of the zoning regulations or order of the Zoning Commissioner, Board of Appeals or Court.

Hearing Date: Wednesday 7/21/93 Time: 11:00 am/pm Location: Rm. 106, County Office Bldg.

Please be advised that your failure to appear at the date, time and location stated above could result in your attachment.



ESTIMATED LENGTH OF HEARING

NOTICE
to the Director of Zoning Administration & Development Management

Special Hearing # V-93-451-SPH (C-93-1305)

Date 6/24/93

I hereby acknowledge receipt of the attached Petition for Special Hearing

Date June 24, 93 Signature Francisco Figueroa
Name (please print) FRANCISCO FIGUEROA
Address 7805 Newton Court
Hanover, Md 21076
Phone # 410-636-9865 or 410-551-4923 +cell 50

RETURN TO:
Director of Zoning Administration and Development Management
111 West Chesapeake Avenue, Suite 109
Towson, Maryland 21204

Ref: Property located at
3529 Annapolis Rd
Baltimore, Maryland 21227
Presently Zone B.L.

Ada E. Figueroa
Ada E. FIGUEROA

RECEIVED
JUN 30 1993
ZADM

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

JULY 16, 1992

NOTICE OF REASSIGNMENT

Rescheduled from 7/21/93
CASE NUMBER: V-93-451-SPH (C/93/1305; C/92/1505)
3529 Annapolis Road
13th Election District - 1st Councilmanic
Property Owner/Lessee: Francisco and Ada E. Figueroa

Special Hearing to determine whether the existing automotive service station has been in continuous operation for a period of twelve consecutive months; and whether the maintenance of the automotive service station has been in a clean and orderly condition at all times.

HEARING: MONDAY, AUGUST 23, 1993 at 9:00 a.m. in Rm. 118, Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

ARNOLD JABLON
DIRECTOR

cc: William F. Jones, Esq.
Trevor Hillier
Francisco and Ada Figueroa

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

June 24, 1993

(410) 887-3353

Mr. Trevor Hillier
3514 Lillac Avenue
Baltimore, Maryland 21227

Re: Case No. V-93-451-SPH
3529 Annapolis Road
13th Election District

Dear Mr. Hillier:

Enclosed is a copy of the special hearing petition issued to the property owner for the referenced case.

Baltimore County has established a time, date, and location for this hearing that will be addressed either before the zoning commissioner or deputy zoning commissioner.

The possibility does exist that this case may be continued due to the failure of the property owner (defendant) to acknowledge service or the request of a continuance by their attorney.

The Office of Zoning Administration and Development Management will make every effort to update you of all subsequent developments relative to this matter.

Sincerely,

/s/
Arnold Jablon
Director

AJ/cmm
Enclosure

file

THE LAW OFFICES OF
WILLIAM F. JONES
705 CHIDDINGS AVENUE
SUITE 06
ANNAPOLIS, MARYLAND 21401
(301) 268-3089
(301) 268-0071
FAX (301) 268-3609

MEMBER MARYLAND BAR
VIRGINIA BAR
AND
DISTRICT OF COLUMBIA BAR

EISENHOWER & TERRY, P.A.
3999 HENDER DRIVE
SUITE 300
FAIRFAX, VIRGINIA 22030

July 14, 1993

Baltimore County Government
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Via Facsimile: 8875708

RE: 3529 Annapolis Road
Zoning Case #V-93-451 SPH

Gentlemen:

I am writing as a follow-up to a recent telephone conversation which I had with Glen Stevens of your office. In this conversation I had advised Mr. Stevens that I had recently been advised by Frank Figueroa of the Hearing which is scheduled for July 21, 1993, at 11:AM. In preparing for the Hearing I note that a "conflict" exists. I am due to argue a case at 9:30AM on July 21, 1993 at the Maryland Tax Court.

Pursuant to my telephone conversation with Mr. Stevens, I had requested an alternate date for this Hearing. Mr. Stevens indicated that if it were to be rescheduled it would have to be during the month of August. He queried as to my availability in the month of August, more specifically August 23rd. I am free the entire week of August 23rd., or I shall make myself available whenever it would be convenient.

I want to thank you in advance for your anticipated cooperation, and do apologize for any inconvenience my scheduling may have caused.

Sincerely,

WILLIAM F. JONES

RECEIVED
JUL 15 1993
ZADM

07/15/93 08:42 E 1 301 268 7412 WILLIAM F. JONES

THE LAW OFFICES OF
WILLIAM F. JONES
705 CHIDDINGS AVENUE
SUITE 06
ANNAPOLIS, MARYLAND 21401
(301) 268-3089
(301) 268-0071
FAX (301) 268-3609

MEMBER MARYLAND BAR
VIRGINIA BAR
AND
DISTRICT OF COLUMBIA BAR

EISENHOWER & TERRY, P.A.
3999 HENDER DRIVE
SUITE 300
FAIRFAX, VIRGINIA 22030

July 14, 1993

Baltimore County Government
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Via Facsimile: 8875708

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Zoning Case #V-93-451 SPH

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Sincerely,

WILLIAM F. JONES
RECEIVED
JUL 15 1993
ZADM

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

March 26, 1993

PETITIONER'S EXHIBIT 1

Mr. William P. Monk
William Monk, Inc.
Courthouse Commons
222 Bosley Avenue, Suite B-7
Towson, MD 21204

RE: Zoning verification of
requirements for service
station reconstruction
3529 Annapolis Road
Zoning Case No.: 571-S
13th Election District

Dear Mr. Monk:

This letter references your correspondence requesting a preliminary zoning determination for the above referenced site. At question is the continuation and proposed improvements to a gasoline service station and service garage use originally permitted by the order in zoning case 571-S (special permit) which was granted in 1946.

Staff has reviewed your proposal and determined the following:

Though the use ceased for more than one year due to fire damage the special exception granted in case 571-S is not terminated and remains in force per Section 405.60 of the Baltimore County Zoning Regulations (BCZR). This requires notice of abandonment by owner, proof of abandonment after notice and hearing pursuant to Section 500.7 or conversion to another use for termination of special exception. This status allows the application of Section 405.8 which permits service stations legally existing on December 31, 1967 which have not lost their permitted status by reason of the termination of a special exception to be reconstructed subject to certain conditions. Part of these conditions are that the proposed improvements be done in such a manner as to be more in keeping with the purposes of subsection 405.4 and .5, BCZR. Also, any reconstruction shall be in accord with the plan for the entire site as approved by the Directors of Planning and ZADM.

Based on the information provided the plan provided for review can be approved (for ZADM with the proposed improvements listed in your letter of March 10, 1993) subject to the following conditions.

Printed on Recycled Paper

PROPERTY OF
FRANCISCO FIGUEROA & WIFE
3529 ANNAPOLIS ROAD
13TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

APPRAISED FOR
THE PROPERTY OWNER

PETITIONER'S EXHIBIT 2

APPRAISED BY:
B. F. SEMON, INC.
724 DULANEY VALLEY ROAD
TOWSON, MARYLAND 21204